

The J. Paul Getty Trust

The J. Paul Getty Trust is a private operating foundation dedicated to the visual arts and the humanities. Through a museum, five institutes, and a grant program, the Getty seeks to advance the understanding, experience, value, and preservation of the world's artistic and cultural heritage. The Trust's origins date to 1953, when J. Paul Getty established a small museum of Greek and Roman antiquities, 18th-century French furniture and European paintings at his home in Malibu and turned the Museum over to the Trustees, now 15 in number, for the "advancement of artistic and general knowledge". Twenty years later, the Trustees built the Roman-style Villa based on renderings of the Villa dei Papiri in Herculaneum; the Villa continues to operate as The J. Paul Getty Museum. When most of Mr. Getty's personal estate passed to the Trust in 1982, the Trustees sought to make a greater contribution to the visual arts through an expanded range of Getty activities in the fields of conservation, education, and scholarship, and sought modification of the Trust Indenture by court action. The J. Paul Getty Trust now includes five institutes and a grant program, in addition to the museum. The new Getty Center, located a few miles from the Villa, opened in December 1997, uniting all Getty entities on one campus, and the Villa will become a center for display, research, and conservation of antiquities.

Tax aspects

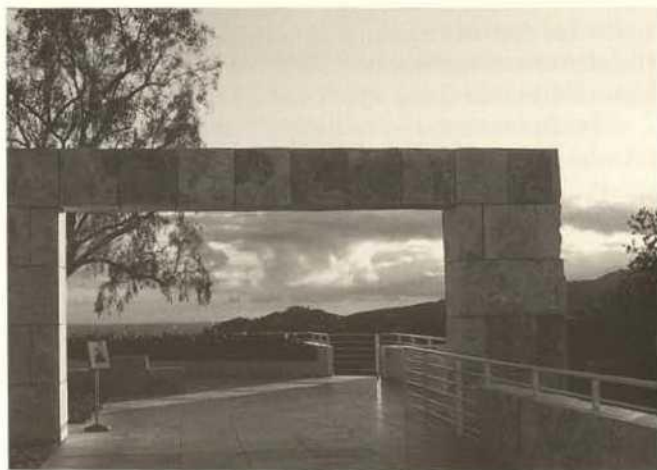
Under U.S. law, a private foundation is, essentially, a charitable organization that is funded from one source (usually, one individual, family, or corporation), that receives its ongoing funding from investment income rather than a consistent flow of charitable contributions. Generally, foundations make grants for charitable purposes to other persons or organizations, they do not conduct their own programs. In many respects, then, a private foundation is very much like an endowment fund.

The J. Paul Getty Trust does not fit this general rule. It is an "Operating Foundation" under the U.S. Internal Revenue Code (§4942(j)(3) IRC). To qualify as an operating foundation, an organization must expend an annual amount equal to four and one-quarter per cent (4 $\frac{1}{4}$ %) of the fair market value of its endowment on its own program-related activities. An operating foundation must satisfy both of two different tests, termed the "Income Test" and the "Endowment Test." Although distinct, these two tests have much in common. They both turn upon the making of *qualifying distributions* that are *direct expenditures*.

A "qualifying distribution" is a payment made to further the charitable purposes of an organization. The term encompasses reasonable and necessary administrative expenses,

capital expenditures and, in some narrow situations, amounts set aside as reserves to fund specific projects. It usually does not include amounts paid to controlled organizations and private foundations.

A "direct expenditure" is a qualifying distribution that is used to fund a charitable activity carried on by the Getty Trust itself. The term does not include grants to other charitable organizations to assist them in their own particular charitable activities. Grants or scholarships paid to individuals will usually not constitute direct expenditures. However, "[t]he administrative expenses of screening and investigation [of grantees] (as opposed to the grants or scholarships themselves) may be treated as qualifying distributions made directly for the active conduct of the foundation's exempt



The Getty Center, Los Angeles by the architect Richard Meier (this and the following illustrations)

activities." Treas. Reg. § 53.4942(b)-1 (b) (2) (i). The complex rules for the Income Test and the Endowment Test should be consulted for more information.

The Income Test. Satisfaction of the Income Test is determined on the basis of the ratio of direct expenditures to either adjusted net income or minimum investment return.

Generally, "adjusted net income" means gross income less deductions. For this purpose, gross income includes dividends, interest, and short-term capital gains but not long-term capital gains. Deductions include straight-line depreciation taken on property that produces dividends, interest, or rental income. As a general rule, the Income Test is met if the operating foundation annually makes direct expenditures equal to at least 85% of the *lesser* of (a) its adjusted net in-

come or (b) 5% of the value of its endowment. If the actual qualifying distributions are more than the minimum investment return but less than adjusted net income, at least 85% of all qualifying distributions must be direct expenditures. However, the test will always be met if direct expenditures equal or exceed 85% of adjusted net income.

The Endowment Test. The second test, the Endowment Test, is met if the operating foundation annually makes qualifying distributions that are direct expenditures in an amount equal to at least three and one-third per cent ($3\frac{1}{3}\%$) of the value of its endowment. It is likely that satisfaction of the Income Test will automatically result in satisfaction of the Endowment Test.

Four-year measuring period. The operating foundation must satisfy both the Income Test and the Endowment Test for a particular taxable year by reference to the four-year period ending with that taxable year either by:

- (1) aggregation of all income, assets and distributions during such taxable year and the three preceding years, or
- (2) separately satisfying the two tests during each of three out of four of those four years.

The same method must be used for both the Income Test and the Endowment Test.

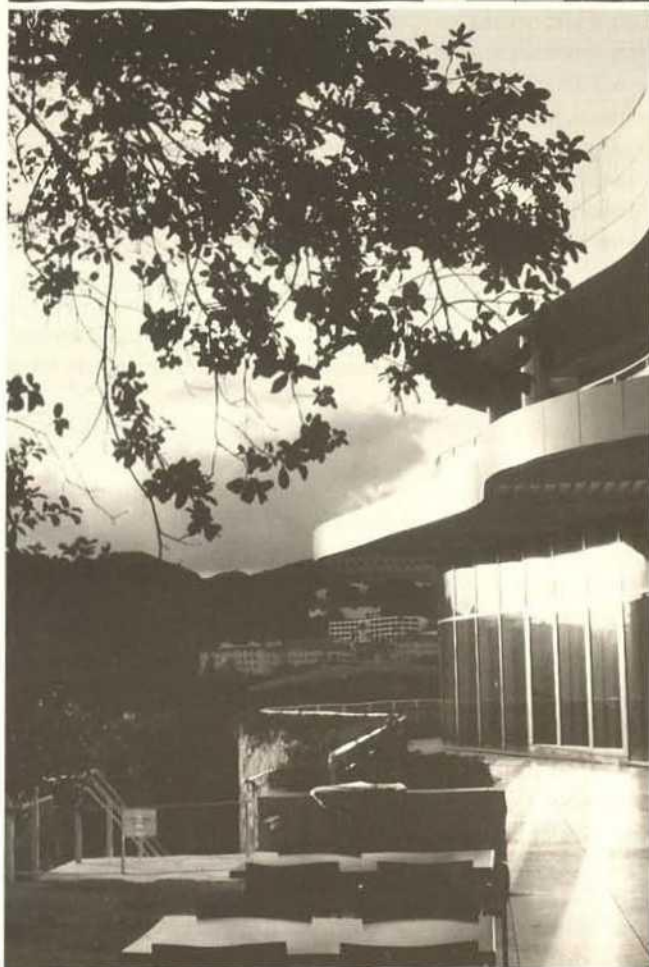
Getty programs

The J. Paul Getty Trust operates through its programs; it is made up of a museum, five institutes, and a grant program.

The J. Paul Getty Museum seeks to delight, inspire, and educate the public by acquiring, conserving, studying, exhibiting, and interpreting works of art of the highest quality within its fields of collecting. The Museum's collections include classical antiquities, European paintings, drawings, sculpture, illuminated manuscripts, decorative arts, and photographs. The Museum offers a wide range of public programs, including lectures, classes, films, and performances. The Museum has two venues: the Villa in Malibu overlooking the Pacific Ocean and the Getty Center, a few miles away (see below).

The Getty Conservation Institute is committed to the preservation of the world's cultural heritage – the monuments, sites, artifacts, and works of art that form an irreplaceable record of human achievement. The Conservation Institute conducts conservation research and shares its findings through training courses, conferences, publications, and a worldwide database. It also undertakes conservation projects at important cultural sites, and works to raise public awareness of the importance of conservation through exhibitions and other outreach efforts.

The Getty Information Institute makes information about the arts and humanities more accessible through digital technology. It serves as a catalyst within the fields of scholarship and technology to address the many challenges involved in creating the virtual libraries of the future. The Information Institute has created widely-used databases of art-historical information, thesauruses, and other reference works. It is a



recognized leader in developing databases of cultural information, including bibliographies, indices, and other reference works; most of these are available on-line and on CD-ROM and diskette, as well as in print. The Information Institute also produces a variety of other publications that address the intersection of art and technology.

The Getty Research Institute for the History of Art and the Humanities is dedicated to innovative scholarship in the arts and humanities. Its work is rooted in the belief that art is best understood within the broad historical and cultural contexts in which it was created. The Research Institute brings together an international group of scholars to exchange ideas while pursuing their own projects. Its resource collections contain more than 750,000 volumes on the history of arts and architecture, religion, history, ethnography, and the history of science; unpublished manuscripts and correspondence among artists, critics, patrons, and dealers; serials and auction catalogues; manuscripts; archives; nearly two million photographs documenting works of art and architecture; and other visual materials. The Research Institute reaches a broad audience through seminars, symposia, exhibitions, performances, and publications, as well as through collaborative projects with local and national institutions.

The Getty Education Institute for the Arts seeks to improve the quality and status of arts education in America's elementary and secondary classrooms. The Education Institute advocates a comprehensive approach to arts education that teaches students not only how to make art, but also how to understand the meaning of a work of art, its historical and cultural context, and the basis for evaluating it. The Education Institute develops model art education programs nationwide; works to change attitudes about arts education while ensuring that teachers have the resources needed to teach art comprehensively; and produces workshops, publications, curriculum materials, and on-line services.

The Getty Leadership Institute for Museum Management assists museum directors and senior staff in acquiring the business knowledge and skills needed to lead their institutions effectively. The Leadership Institute's core program, the Museum Management Institute, is an intensive three-week course, administered for the Getty by the American Federation of Arts. It is held each summer at the University of California, Berkeley, and is taught by instructors from leading business schools.

The Getty Grant Program provides crucial support for projects in the areas of art history, museum practice, and conservation. These projects, undertaken by institutions and individuals throughout the world, represent a wide range of geographic locations, subject matter, and methods. Over the last 10 years, the Grant Program has awarded approximately \$60 million to support 1,500 projects in 135 countries.

The Getty Center

The J. Paul Getty Trust is completing its 110-acre campus in west Los Angeles. It will unite all parts of the Getty in one location. The Getty Center will welcome both the public and professionals in the arts and the humanities from around the world. The Getty Center, designed by Richard Meier, was inspired by the gardens and hill towns of Italy which provided historic precedents for settings similar to the

Getty's. The campus covers 24 acres of the 110-acre site, and the six distinct buildings occupy approximately five acres, with the remainder occupied by gardens and terraces. An adjoining 600 acres preserves the natural quality of the area. The contrast between the architectural materials, the travertine and metal panels that enclose the upper levels of most buildings, suggests a sense of solidity and of permanent presence in the landscape. The stone suggests permanence, solidity, simplicity, warmth, and craftsmanship, while the metal panels have been molded to fit the fluid, sculptural forms of the buildings. The whole offers a sense of openness, and lightness of space.

Visitors who drive to the Getty Center will park in the structure north of the campus at the foot of the hill. They will board the electric tram for the 3/4 mile trip to the main plaza at the top of the hill. The tram, an electric horizontal elevator system, is pulled up the hill by cables and rides on a thin cushion of air, ensuring a smooth and quiet ride. The tram deposits visitors at the main plaza of the Getty Center and visitors climb the wide staircase to the new 360,000 square foot Museum. Reminiscent of the Spanish Steps in Rome or the entrance to the Metropolitan Museum in New York, the plaza will be the ideal place to gather, wait for friends, sit in the sun on the steps, and enjoy the 360 degree view of the Santa Monica Mountains, the Pacific Ocean, and the City of Los Angeles.

Visitors may enjoy lunch at the Getty Center in the restaurant which offers spectacular views of the Santa Monica Bay and the Pacific Ocean.

At the north end of the campus, the 450-seat auditorium offers a variety of lectures, symposia, discussions and small musical performances. It has the capability of simultaneous translation in five languages. In the auditorium throughout the day, visitors can view a short film about the work of the Getty programs.

A magnificent three-acre garden designed by California artist Robert Irwin sits in the ravine between the Museum and the Research Institute. The central garden re-establishes the natural ravine with an inviting, tree-lined walkway that leads the visitor through an extraordinary garden experience. The walkway traverses a stream, which is bordered on each side by a variety of grasses and gradually descends to a plaza where bougainvillea arbors provide scale and a sense of intimacy. The stream continues through the plaza and ends in a cascade of water over a stone waterfall or "chatter", and into a pool that contains a maze of azaleas. All of the foliage and materials of the garden are being selected to accentuate the interplay of light, color, and reflection. More than five hundred varieties of plant material are used in the landscaping of the Central Garden.

Conclusion

While over 1.5 million visitors annually will enjoy the most public areas of the campus, scholars and professionals from a variety of fields will be at work in the Getty Institutes. From its modest beginnings in 1953, the Getty has grown in scale and scope. The new Getty Center represents the next chapter in the young life of this unique private operating foundation, a California charitable organization.

